

# **EXHIBIT 11**

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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DARCY M. BLACK,

Plaintiff,

-vs-

BUFFALO MEAT SERVICE, INC., doing business  
as BOULEVARD BLACK ANGUS, also known as  
BLACK ANGUS MEATS, also known as  
BLACK ANGUS MEATS & SEAFOOD,  
ROBERT SEIBERT,  
DIANE SEIBERT,  
KEEGAN ROBERTS,

Defendants.

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Examination Before Trial of

THOMAS C. HOWELLS, taken pursuant to the Federal Rules of  
Civil Procedure, in the law offices of GRECO TRAPP, PLLC,  
1700 Rand Building, 14 Lafayette Square, Buffalo, New York,  
taken on February 9, 2018, commencing at 9:36 A.M., before  
VALERIE WHITE, Notary Public.

1 A. Yes, I was.

2 Q. Was part of your job the responsibility to  
3 enforce the policies in the employee handbook?

4 A. If someone came to me with a problem, yes, I  
5 would take care if it, and if I couldn't take  
6 care of it, I would go to Mr. May.

7 Q. If you observed someone violating the policies of  
8 the company, would it have been your  
9 responsibility to take action?

10 A. Yes.

11 Q. At that company, did individuals have assigned  
12 work hours?

13 A. Yes.

14 Q. So were they given schedules?

15 A. Yes.

16 Q. Did you create those schedules?

17 A. Yes. Well, see, a lot of it the government  
18 created too because we only could work from seven  
19 to three-thirty free. Anything before seven or  
20 after three-thirty we would have to pay the  
21 government overtime, so we had a federal  
22 inspector in our building all day.

23 Q. What do you mean you'd have to pay the government

1 overtime?

2 A. You get eight hours free with the government.

3 Anything before seven o'clock or after

4 three-thirty, you would have to pay overtime. So

5 we didn't want to pay overtime, so mostly

6 everything in the building was scheduled seven to

7 three-thirty.

8 Q. Were you ever faced with a situation where one or

9 more individuals was regularly late for work?

10 A. Yes.

11 Q. And what did you do in those circumstances?

12 A. Send them home for the day, number one. If it

13 happened once or twice, no, but if it was

14 persistent and then after a while we wouldn't

15 tolerate it, they'd be gone.

16 Q. As the plant manager, was it important for you to

17 have your work force there on time?

18 A. Yes, it was.

19 Q. As part of being a plant manager, did you ever

20 have to -- strike that. Do you know what

21 progressive discipline is?

22 A. Yes, we would do that.

23 Q. You had a policy at that company?

1 Q. What if it was the day after Thanksgiving and  
2 many of your employees asked for the day off,  
3 would there have to be a determination as to who  
4 was entitled to take it off?

5 A. No, because that really never happened. I mean,  
6 people back when I worked there and everything,  
7 they pretty much showed up for work every day.  
8 They didn't ask for a lot of time off. It wasn't  
9 a problem.

10 Q. Did your job duties include evaluating employees  
11 when you were at Sher-Del Foods?

12 A. Yes.

13 Q. Can you tell me what the process was there for  
14 evaluation of employees?

15 A. Well, what we would do, if an employee showed  
16 interest or anything, we'd make, try to make meat  
17 cutters out of them. I bet you I trained, when I  
18 was there, five, six, seven kids. There's a  
19 couple of them -- they were kids to me. There  
20 were a couple of them who work for Tops today.

21 Q. And was the training the same way you received  
22 it, they didn't have to have a special  
23 background, just show an interest and you would

1 show them?

2 A. Correct.

3 Q. Did you have to get permission from anyone to be  
4 able to train someone as a meat cutter?

5 A. Yes.

6 Q. Who did you have to get permission from?

7 A. Richard May.

8 Q. With regard to evaluating employees as to their  
9 job performance, would that be done on a regular  
10 basis? By that, I mean annually or biannually?

11 MS. BAHAS: Object to the form.

12 THE WITNESS: Yes. See, we were a union shop, so  
13 they would get their raises with the union. The  
14 whole company was union.

15 BY MS. GRECO:

16 Q. When you say raises with the union, you mean --

17 A. So much this year, so much the next year.

18 Q. So it was set in the contract what their raises  
19 would be?

20 A. Correct.

21 Q. And then this way it was applied across the board  
22 to everyone regardless of their race or sex or  
23 national origin?

1 A. There was a man there by the name of Nelson  
2 Schultz. Bob was a meat cutter. That's about  
3 it.

4 Q. Do you recall any other meat cutters while you  
5 were employed?

6 A. Do I what?

7 Q. Any other meat cutters while you were employed at  
8 Black Angus Meats?

9 A. No.

10 Q. When I say meat cutters, I include those people  
11 that cut meat, cut deer?

12 A. No.

13 Q. Do you know an individual by the name of David  
14 Monopolus?

15 A. Yes, I do.

16 Q. Has he ever worked at Black Angus Meats?

17 A. I think he did work there last few years at deer  
18 season, yes.

19 Q. Do you recall David Monopolus working there  
20 when Darcy Black worked there?

21 A. No, I don't.

22 Q. Do you recall working side by side with Mr.  
23 Monopolus at Black Angus Meats?

1 MS. BAHAS: Object to the form.

2 BY MS. GRECO:

3 Q. You can answer, cutting deer meat?

4 A. In the last couple years, yes.

5 Q. When you say the last couple years, do you know  
6 what years they are?

7 A. Maybe the last three years.

8 Q. By that, you mean 2000 -- when do you believe it  
9 started?

10 A. I would say '15.

11 Q. '15, '16 and '17?

12 A. Yes.

13 Q. Do you recall him working there in 2005?

14 A. No.

15 Q. Do you recall him working there in 2006?

16 A. No.

17 Q. During deer season I'm talking about.

18 A. No.

19 Q. Do you recall him working there in 2007?

20 A. No.

21 Q. Do you recall him working there in 2008?

22 A. No.

23 Q. Do you recall him working there in 2009?



- 1 A. No.
- 2 Q. Do you recall him working there in 2010?
- 3 A. No.
- 4 Q. Do you recall him working there in 2011?
- 5 A. No.
- 6 Q. Do you recall him working there in 2012?
- 7 A. No.
- 8 Q. Do you recall him working there in 2013?
- 9 A. No.
- 10 Q. Do you recall him working there in 2014?
- 11 A. No.
- 12 Q. You said you do recall him working there in '15?
- 13 A. The last maybe three to four years, two to three
- 14 years. I'm just not sure.
- 15 Q. What was his position?
- 16 A. He was a meat cutter.
- 17 Q. His full-time job was somewhere else, was it not?
- 18 A. Yes.
- 19 Q. Where was that full-time job?
- 20 A. Market In The Square.
- 21 Q. Does he still work at Market In The Square?
- 22 A. No.
- 23 Q. When did he stop working there?

1 A. I don't know the dates.

2 Q. Do you know how he came to work at Black Angus  
3 Meats?

4 A. No, I don't.

5 Q. Now, you said you believe he worked there the  
6 last three or four years.

7 A. Yes.

8 Q. And let's go back to, let's start with 2017. Did  
9 he work there in 2017?

10 A. Yes, deer season.

11 Q. And what did he do during deer season?

12 A. He was a meat cutter.

13 Q. What were his hours?

14 A. He'd come in at night.

15 Q. What's that, what does at night mean to you?

16 A. Maybe five, six o'clock.

17 Q. How long would he work for?

18 A. Two, three hours.

19 Q. And how many days did he do that during deer  
20 season?

21 A. Deer season, the first two weeks there was deer  
22 to cut. After the first two weeks there was very  
23 few deer to cut. So maybe he'd come in four or

1 five days in the first week.

2 Q. How about the second week?

3 A. Could have been four or five days.

4 Q. How many deer would come in on the first day of  
5 deer season? Somebody testified several hundred.  
6 Can you tell me your best estimate how many deer  
7 would come in?

8 MS. BAHAS: Object to the form.

9 BY MS. GRECO:

10 Q. You can answer.

11 A. Used to be a lot. You just don't have the  
12 hunters anymore. If we get sixty, seventy deer  
13 opening day, that's a lot of deer.

14 Q. When was -- have you worked with Mark Leible?

15 A. Yes.

16 Q. Is he involved with -- he's an employee at Black  
17 Angus Meats?

18 A. Correct.

19 Q. Would he be aware of how many deer came in on  
20 opening day?

21 MS. BAHAS: Object to the form.

22 BY MS. GRECO:

23 Q. You can answer.

1 MS. BAHAS: Object to the form.

2 BY MS. GRECO:

3 Q. For the six years before you retired, or five  
4 years or whatever it was from U.S. Foods, you not  
5 only worked at U.S. Foods but you also went and  
6 worked at Black Angus Meats.

7 A. Correct.

8 Q. You didn't need Black Angus Meats to get up in  
9 the morning, did you?

10 A. No.

11 Q. In those years, you have no recollection of what  
12 you earned or what they hired you at?

13 A. No.

14 Q. Do you have any reason to believe you were  
15 earning anything different than fourteen dollars  
16 an hour during the time period beginning 2/3/08?

17 A. No.

18 Q. Let me show you what's been marked as Exhibit  
19 148. For the record, this is a payroll,  
20 pre-checkwriting payroll report for the period  
21 ending 10/19/08 and 10/26/08 at Black Angus Meats  
22 relative to Thomas Howells. Do you recall, Mr.  
23 Howells, receiving a raise to fifteen dollars an

1 hour for the week ending October 26th, 2008?

2 A. No, I don't.

3 Q. Getting a dollar raise an hour, would that be  
4 significant to you?

5 A. Yes.

6 Q. Do you have anything that would help you refresh  
7 your recollection?

8 A. No.

9 Q. Do you know if, in fact, you were making fifteen  
10 dollars an hour beginning October 26th, 2008?

11 A. No.

12 Q. Show you what's been marked as Exhibit 149, which  
13 is a W-2 report from the year 2008 for Thomas  
14 Howells. Shows he made thirteen thousand, six  
15 hundred forty-six dollars and thirty cents. Do  
16 you have any reason to believe that's inaccurate?

17 A. No.

18 Q. Did you receive your W-2 for that year?

19 A. I'm sure.

20 Q. Did you ever complain that there was an error  
21 made in the W-2 for 2008?

22 A. No.

23 Q. You understand it would be your obligation

1           legally if there was an error to bring it to the  
2           attention of your employer?

3   MS. BAHAS:   Object to the form.

4   THE WITNESS:   Yes.

5   BY MS. GRECO:

6   Q.   And that would include all your services for deer  
7       meat and non-deer meat?

8   A.   Yes.

9   Q.   Show you what's been marked as Exhibit 150.   For  
10       the record, it is a Black Angus Meats W-2 report  
11       for the year 2009 reflecting Thomas Howells  
12       earned twenty-one thousand, two hundred  
13       eighty-two dollars and seventy-five cents.   Do  
14       you know how old you were in 2009?

15   A.   I must have been sixty-five, sixty-six.

16   Q.   Were you at full retirement age that year?

17   A.   Yes.

18   Q.   So at full retirement age, you could earn any  
19       amount and not have to pay money back to Social  
20       Security?

21   MS. BAHAS:   Object to the form.

22   BY MS. GRECO:

23   Q.   When you're full retirement age, you're allowed

1 A. Sometime you could use some of the meat from the  
2 day before, so you put that in. If you had to  
3 cut new, you'd cut new.

4 Q. How long does it take to set up a counter?

5 A. I can set a counter up in two hours.

6 Q. And then what would you do after that?

7 A. I would get some stock ready for the girls to  
8 wrap.

9 Q. What does that mean?

10 A. I would cut extra stuff so we'd have it for the  
11 beginning of the month.

12 Q. Okay. And when you say cut extra stuff, what are  
13 we talking about?

14 A. I would cut sirloins, strips, pork chops,  
15 whatever meat there is that we sell there, I  
16 would get ready.

17 Q. Okay. And after you cut it, what would happen to  
18 it?

19 A. It would get wrapped. It would go in the cooler  
20 and then I would leave the girls, if I left, I  
21 would leave them a list on what to wrap and what  
22 not to wrap.

23 Q. So you would cut the meat and leave it in the

1 Q. Were you aware of Darcy Black being able to cut  
2 strip steaks?

3 A. Never seen her do it.

4 Q. Were you aware of Darcy Black learning to do that  
5 by watching?

6 A. To my knowledge, no.

7 Q. Did you ever teach her to do anything relative to  
8 meat cutting?

9 A. No.

10 Q. Did you ever teach her to make cube steaks?

11 A. No.

12 Q. You have no recollection of teaching her how to  
13 make cube steaks?

14 MS. BAHAS: Objection. Asked and answered.

15 BY MS. GRECO:

16 Q. Would you agree with me if Darcy Black could  
17 butterfly chickens, that that's something a meat  
18 cutter does?

19 MS. BAHAS: Object to the form.

20 THE WITNESS: Usually.

21 BY MS. GRECO:

22 Q. Would you agree with me that if Darcy Black knew  
23 how to make cube steaks in the cube machine,



1           that's something a meat cutter did?

2   MS. BAHAS:   Object to the form.

3   BY MS. GRECO:

4   Q.   You can answer.

5   A.   I mean, anybody -- I mean, any time the cube  
6       steaks are made, they're cut, just like taking  
7       this and dropping it through the cuber.  It's not  
8       making it.  I would make them, no one else would.

9   Q.   Who would use the cubing machine?

10  A.   I do.

11  Q.   Do you ever recall teaching Darcy Black how to  
12       use the cube machine?

13  A.   No.

14  Q.   If Darcy Black used the cube machine, she would  
15       be doing the job of a meat cutter, isn't that  
16       true because that's what you did?

17  MS. BAHAS:   Object to the form.

18  THE WITNESS:   Yes.

19  BY MS. GRECO:

20  Q.   Were you aware of Darcy Black cutting a strip  
21       steak for a customer when you were not there?

22  A.   No.

23  Q.   Would you agree with me that cutting a strip

1 A. Approximately, yes.

2 Q. And is it fair to say that -- well, he testified  
3 he was spoken to seventy times by Keegan Roberts,  
4 over seventy times about being late. Does that  
5 surprise you?

6 MS. BAHAS: Object to the form.

7 THE WITNESS: Does what surprise me?

8 BY MS. GRECO:

9 Q. That Jamie Lapress was late to work and spoken to  
10 over seventy times because of it?

11 MS. BAHAS: Object to the form.

12 THE WITNESS: I would say it probably was true.

13 BY MS. GRECO:

14 Q. So it's fair to say that either you worked later  
15 than twelve o'clock or Mr. Lapress -- strike  
16 that. So you would say that was true, and what  
17 did Black Angus Meats do about this chronic  
18 problem with Mr. Lapress?

19 MS. BAHAS: Object to the form.

20 BY MS. GRECO:

21 Q. You can answer if you know.

22 A. Yes, I do know. Jamie had a starting time. He  
23 was a little bit late, but Jamie never had a

1       quitting time. So if he came in ten or fifteen  
2       minutes late, he'd stay at night till eight,  
3       nine, ten o'clock.

4   Q.   When do customers leave Black Angus Meats?

5   A.   Store closes at seven.

6   Q.   So if he has a starting time at noon and he comes  
7       in at one --

8   A.   No, he was never that late.

9   Q.   How do you know if you weren't there?

10  A.   Because I know.

11  Q.   Because you were there?

12  A.   No, I wasn't there. I would be told.

13  Q.   Who would tell you?

14  A.   Somebody there. It's a small place. Everyone  
15       knows everybody.

16  Q.   Did you ever complain that Mr. Lapress wasn't  
17       coming to work on time?

18  A.   It wasn't my business to.

19  Q.   Were you ever surprised that no action was taken  
20       regarding his failure not to be there on time?

21  MS. BAHAS: Object to the form.

22  THE WITNESS: It was none of my business.

23  BY MS. GRECO:

1 Q. And you previously testified that your hours of  
2 work, you would leave at two or three o'clock?

3 MS. BAHAS: Object to the form. I don't believe he  
4 testified to that.

5 THE WITNESS: My hours varied every week. Every day  
6 they varied.

7 BY MS. GRECO:

8 Q. Every day they varied?

9 A. Yes.

10 Q. So could you pick your own hours?

11 A. I'd come in every morning and when my work was  
12 done, I'd leave.

13 Q. And was Black Angus a busy place -- strike that.  
14 How many employees are at Black Angus Meats?

15 A. Maybe twelve, fifteen.

16 Q. So approximately the size of Isenberg Meats?

17 MS. BAHAS: Object to the form. He didn't testify to  
18 that.

19 BY MS. GRECO:

20 Q. You testified how many people were at Isenberg  
21 Meats.

22 A. It's close. Maybe three, four employees either  
23 way, yes.

1 A. From the day he started working there.

2 Q. When did he start working there?

3 A. I couldn't tell you.

4 Q. Let me show you what's been marked as Exhibit  
5 278, which for the record is the pre-checkwriting  
6 report for the pay period February 4, 2008 to  
7 February 10, 2008 for Christopher Howells. Does  
8 that -- for the record, this is the first pay  
9 period that we were given for Mr. Howells. So my  
10 question to you is, does that help refresh your  
11 recollection when Christopher started working at  
12 Black Angus Meats?

13 A. No.

14 Q. Let me show you the chart in front of you,  
15 Exhibit 209 that was provided to us by Black  
16 Angus Meats. I'd like you to go to the second  
17 page. Do you see where it says Christopher  
18 Howells, Caucasian male, date of hire 2/1/08?

19 A. Yes.

20 Q. Do you see it says his hiring rate is eleven  
21 dollars an hour?

22 A. Yes.

23 Q. You see it says he worked front counter, venison

1 grinder and meat cutter. Is it fair to say when  
2 he started at Black Angus Meats he was not a  
3 venison grinder or meat cutter?

4 A. Yes, he worked deer season.

5 Q. When he started at Black Angus Meats, was he a  
6 meat cutter?

7 A. No.

8 Q. So is it fair to say, if he started on or about  
9 February 1, 2008, he was not a meat cutter at  
10 that time?

11 A. No.

12 Q. Is that fair to say or not?

13 A. Yes.

14 Q. Because he was working the front counter and you  
15 hadn't taught him yet, right?

16 MS. BAHAS: Object to the form.

17 THE WITNESS: Yes.

18 BY MS. GRECO:

19 Q. He was working the front counter, and do you know  
20 what his hourly rate of pay was at that time?

21 A. No.

22 Q. Looking at that Exhibit 278, which is in front of  
23 you, it shows that Christopher Howells worked

1       twenty point five hours and earned two hundred  
2       and forty-six dollars. Do you recognize that as  
3       twelve dollars an hour?

4   A.   Yes. He'd come in after work because he still  
5       worked at U.S. Foods.

6   Q.   So is it your recollection he would work  
7       full-time at U.S. Foods and work twenty point  
8       five hours a week at Black Angus Meats at that  
9       time?

10  MS. BAHAS: Object to the form.

11  BY MS. GRECO:

12  Q.   If you know?

13  A.   It would vary.

14  Q.   Who would make his schedule up?

15  A.   Diane.

16  Q.   And he was a front counter person, you said  
17       initially?

18  A.   Yes.

19  Q.   And for how long was he on the front counter?

20  A.   As long as he worked there.

21  Q.   Okay. Was that his main job?

22  A.   Yes.

23  Q.   So you never trained him to be a meat cutter

1           there?

2   MS. BAHAS:   Object to the form.

3   BY MS. GRECO:

4   Q.   You trained him to be a meat cutter for somewhere  
5       else, is that true?

6   MS. BAHAS:   Object to the form.

7   THE WITNESS:   I didn't train him to be a meat cutter.  
8       He didn't want to be a meat cutter at Black  
9       Angus.   He wanted me to teach him how to be a  
10      meat cutter for U.S. Foods.

11  BY MS. GRECO:

12  Q.   So teaching him to be a meat cutter was separate  
13      from his job at Black Angus Meats?

14  A.   Yes.

15  Q.   And at Black Angus Meats, he was on the front  
16      counter?

17  A.   Correct.

18  Q.   Was he on the front counter the whole time he  
19      worked there?

20  A.   He used to grind.

21  Q.   When did he start grinding meat?

22  A.   From the day he worked there.

23  Q.   Did he know how to grind meat before he went to



1           Black Angus Meats?

2    A.    I showed him.

3    Q.    Listen to the question.    Before he started  
4           working at Black Angus Meats in 2008, in February  
5           2008, did he know how to grind meat?

6    MS. BAHAS:   Object to the form.

7    THE WITNESS:   He had never ground it before, so I'd  
8           say no.

9    BY MS. GRECO:

10   Q.   That's what I'm trying to find out.   Maybe  
11          somebody else taught him, I don't know, that's  
12          why I'm asking you.

13                So when he started work there, he was a  
14          front counter person and had no experience  
15          cutting meat or grinding meat, is that fair to  
16          say?

17   MS. BAHAS:   Object to the form.

18   THE WITNESS:   Yes.

19   BY MS. GRECO:

20   Q.   And then there came a time when you taught him  
21          how to grind meat?

22   A.    Correct.

23   Q.   How long after he started working at Black Angus

1 A. I got him the job there.

2 Q. I understand. So what I'm saying is, it was his  
3 goal and yours to be able to get him a better job  
4 at U.S. Foods, isn't that true, to be ultimately  
5 a meat cutter there?

6 MS. BAHAS: Object to the form.

7 THE WITNESS: Yes.

8 BY MS. GRECO:

9 Q. Is he a meat cutter there now?

10 A. Part-time meat cutter, part-time fish person.

11 Q. But he's able to do meat cutting there?

12 A. Correct.

13 Q. My question is, is it fair to say that when you  
14 taught him how to do meat grinding, that was not  
15 on Black Angus time or was it?

16 A. That was on Black Angus time.

17 Q. How long did you teach him to grind meat?

18 A. How long what?

19 Q. Did it take him to grind meat?

20 A. Couple hours.

21 Q. And he was successful in doing that?

22 A. Yes.

23 Q. And then how long did it take for you to decide

1 testified that he learned how to make sausage.

2 THE WITNESS: No, I never said he made sausage.

3 BY MS. GRECO:

4 Q. Did he grind sausage at Black Angus Meat?

5 A. He ground meat for ground beef and stuff like  
6 that and we'd put it in vats and then the sausage  
7 maker would come in and make it.

8 Q. That's what you said took a couple hours to teach  
9 him to learn how to grind meat?

10 A. Correct.

11 Q. Did he grind meat at Black Angus Meats?

12 A. Yes.

13 Q. And is that something you could have taught Darcy  
14 Black to do?

15 MS. BAHAS: Object to the form.

16 THE WITNESS: If I was told to, yes.

17 BY MS. GRECO:

18 Q. Now, did there come a time when your son  
19 increased his hours at Black Angus Meats?

20 A. He might have increased them the first two weeks  
21 of the month were busier than the last two, so he  
22 might have worked a little more the first two  
23 weeks versus the last two.

1 A. Both. But Bob never had a problem with it. If  
2 he did, he never said anything about it.

3 Q. That's why I'm asking.

4 A. I'm trying to tell you.

5 Q. Would employees talk to him when he was there?

6 A. Yes.

7 Q. Did anyone ever tell you that was disruptive to  
8 work, meaning that shouldn't be happening during  
9 working hours?

10 A. No.

11 Q. Did you ever observe him in the pack room?  
12 Strike that. When you worked, were you in the  
13 pack room?

14 A. I could go back there. If I had an order,  
15 sometimes the girls would give me an order and  
16 I'd take it back because sometimes they were  
17 afraid to take them back because they'd get  
18 hollered at so I'd take them back.

19 Q. Who would get hollered at?

20 A. The girls. They'd say here, take this back.

21 Q. Who would get hollered at?

22 A. If they didn't want to do it or something like  
23 that.

1 Q. You just said the girls were afraid to bring it  
2 in back because they would get hollered at. So  
3 who would holler at them?

4 A. No. They would just say I don't want no more,  
5 whoever was working back there, whether it was  
6 Darcy back there, whoever was back there, you'd  
7 take one back and they would say I don't want  
8 anymore.

9 Q. What do you mean, I don't want anymore?

10 A. I don't want any more orders.

11 Q. Do they have the ability to say I don't won't any  
12 more orders?

13 A. Oh, it was just in jest, just kidding.

14 Q. So they were afraid to go in the back?

15 A. No, they weren't afraid, but I used to take it  
16 back.

17 Q. I'm trying to figure out what you said. One of  
18 their jobs would be to bring it in the back, but  
19 they would ask you to do it with a hernia because  
20 they were afraid?

21 A. It was just a piece of paper.

22 Q. So they wouldn't want to go in the back with a  
23 piece of paper?

1 A. I would take it back.

2 Q. You would leave your work as a butcher, go in the  
3 back with a piece of paper because the counter  
4 person didn't want to leave the counter?

5 A. Not that they didn't want to leave the counter.  
6 I'd say I'd take it back.

7 Q. How often did that happen that you left your job  
8 as a butcher to go bring papers in the back?

9 A. Maybe once or twice a month.

10 Q. Who would bring them back otherwise?

11 A. Whoever took the order.

12 Q. That would be a person at the counter, isn't that  
13 true?

14 A. Or the people in the office. If the phones got  
15 too busy in the office, the girls out front would  
16 answer the phones.

17 Q. Were you ever aware of Raelean Rush not wanting  
18 to go into the back in the pack room?

19 MS. BAHAS: Object to the form.

20 THE WITNESS: Never heard of that.

21 BY MS. GRECO:

22 Q. So who did you say didn't want to go in the back?  
23 You said the girls, could you give me the names?

1 A. If Darcy was up front, I'd even take an order  
2 back for her.

3 Q. Are you saying Darcy was afraid to go in the  
4 back?

5 A. No, she wasn't afraid, but I'd take it back.

6 Q. What I'm trying to find out is, here's a company  
7 where you're the meat cutter and you feel you  
8 have to bring an order back to the pack room. My  
9 question is, why did you feel you needed to do  
10 that as opposed to have someone who's right there  
11 at the counter? I mean, you had to go past the  
12 counter to the back versus them who are right  
13 there.

14 A. They had to go back there too. Sometimes the  
15 counter would be busy, they'd be busy on the  
16 counter so I would say I'll take it back. I  
17 could leave my job a lot better than they could  
18 leave their job to have customers standing on the  
19 counter.

20 Q. Is there any way you could explain to me your  
21 statement that they didn't want to go back, they  
22 were afraid to go back?

23 MS. BAHAS: Objection. He didn't testify that they

1           was the front-end manager, would you agree with  
2           me individuals could think they could go to her?

3   MS. BAHAS:   Object to the form.

4   BY MS. GRECO:

5   Q.   You could answer.

6   A.   I would call her the lead girl.   I never heard of  
7           her as front-end manager.

8   Q.   You didn't report to her, right?

9   A.   Myself?

10   Q.   Yes.

11   A.   No.

12   Q.   Who did you report to?

13   A.   Bob, Keegan or Diane.

14   Q.   Do you know who Debbie reported to?

15   A.   Bob, Keegan or Diane.

16   Q.   Let me show you what Black Angus Meats also  
17           provided to the EEOC.   Exhibit 209 and I'd like  
18           to refer you to Bates page DEF0052 under Debbie  
19           Negrych, do you see that?

20   A.   Okay.

21   Q.   Do you know what her title is -- which Defendants  
22           says her title is?

23   A.   Okay.



1 Q. What is it?

2 A. Front counter manager.

3 Q. Okay. Did the people that worked at the front or  
4 packers report directly to Diane Seibert or did  
5 they go through Debbie Negrych?

6 MS. BAHAS: Object to the form.

7 THE WITNESS: Say that again.

8 BY MS. GRECO:

9 Q. When Diane Seibert wasn't there, would people go  
10 to Debbie Negrych?

11 A. If they had a question on something to be done,  
12 yes.

13 Q. You've been in management for a number of years.  
14 What does the name manager imply?

15 MS. BAHAS: Object to the form.

16 THE WITNESS: To me, the manager runs the show.

17 BY MS. GRECO:

18 Q. So a front-end manager could mean to people that  
19 this is the person who runs the front end of the  
20 business, if you know?

21 MS. BAHAS: Object to the form.

22 THE WITNESS: No, I don't know. But you could ask  
23 anybody in that building if they considered

1 Debbie a manager and they're going to tell you  
2 no.

3 BY MS. GRECO:

4 Q. So what Black Angus told the EEOC -- let's assume  
5 that Black Angus Meats did provide this to the  
6 EEOC, which we can document, are you saying that  
7 they told an untruth when they gave this to the  
8 EEOC?

9 MS. BAHAS: Object to the form.

10 BY MS. GRECO:

11 Q. You can answer.

12 A. I would say Debbie is the lead girl.

13 Q. Who do you think would know more, you or Black  
14 Angus Meats as to what Debbie Negrych's role was?

15 MS. BAHAS: Object to the form.

16 BY MS. GRECO:

17 Q. You can answer.

18 A. Black Angus Meats.

19 Q. Do you have a reason to disagree with them saying  
20 that she was a front-end manager?

21 A. No.

22 Q. Did Debbie Negrych ever complain to you about her  
23 earnings?

1 A. I think anyone who has a cell phone I've seen on  
2 it.

3 Q. And did anyone say they couldn't use it?

4 A. I never heard it.

5 Q. Were you aware of individuals receiving text  
6 messages at Black Angus -- strike that. Do you  
7 know what a text message is?

8 A. I heard of them. I don't know what it is.

9 Q. Would it ever be appropriate for a male employee  
10 to say to a female employee at work that she's  
11 got a nice ass?

12 A. It wouldn't be appropriate, no.

13 Q. Did you ever hear any male employee say to a  
14 female employee at Black Angus Meats that she has  
15 a nice ass?

16 A. No, I haven't.

17 Q. Were you aware of Raelean Rush being told she has  
18 a nice ass by Sean Round?

19 A. No.

20 Q. If, in fact, that occurred, would you agree with  
21 me that that could be harassment?

22 A. Yes.

23 Q. Would it ever be appropriate for a male employee

1 to tell another male employee after a female  
2 walked by that she's got a nice ass?

3 A. It wouldn't be appropriate.

4 Q. Would that also be a form of sexual harassment?

5 A. I would say so, yes.

6 MS. BAHAS: Object to the form.

7 BY MS. GRECO:

8 Q. Would you agree with me, it would be demeaning to  
9 the woman?

10 A. Yes. You just don't say that.

11 Q. Did you ever hear any male employee comment  
12 regarding a female employee that her headlights  
13 were on?

14 A. Her what?

15 Q. Headlights were on.

16 A. I think I know what you mean, no.

17 Q. In reference to her breasts?

18 A. Yes. No.

19 Q. Would that ever be appropriate in the workplace?

20 A. That wouldn't be tolerated anyplace I worked.

21 Q. You hope it wouldn't be tolerated, right?

22 A. It wouldn't be. I've never seen it tolerated.

23 Q. So if there was a male manager present at Black

1 Angus Meats when Sean Round, or any other male  
2 said to a female that she's got a nice ass, what  
3 would you expect them to do?

4 MS. BAHAS: Object to the form.

5 THE WITNESS: I would say fire them on the spot,  
6 that's what I would do.

7 BY MS. GRECO:

8 Q. And if a male employee said in the presence of --  
9 if a male employee, if a male employee said to a  
10 female employee in the workplace in the presence  
11 of a manager or supervisor that her headlights  
12 are on, or a customer's headlights are on, what  
13 would you expect the manager to do?

14 MS. BAHAS: Object to the form.

15 BY MS. GRECO:

16 Q. You can answer.

17 A. Take them in the office and terminate them.

18 Q. Would it ever be appropriate for a male employee  
19 to say relative to a female customer, oh, look at  
20 that cleavage?

21 A. That wouldn't be appropriate either.

22 Q. And in your opinion, as a long term manager,  
23 would that be basis for termination?

1 A. Yes.

2 Q. And in your opinion, would that be the basis of  
3 sexual harassment relative to a customer?

4 MS. BAHAS: Object to the form.

5 THE WITNESS: I would say it would be, yes.

6 BY MS. GRECO:

7 Q. Do you have any personal knowledge of any African  
8 American individual who was interviewed by anyone  
9 at Black Angus Meats?

10 A. I don't have any knowledge of anybody being  
11 interviewed there. The only thing I could tell  
12 you is, anybody that came in would get an  
13 application. When it was filled out, whatever  
14 color they were, whatever race they were, they  
15 would go in the office with it. What happened  
16 after that, I couldn't tell you.

17 Q. When you say they would go in the office, the  
18 person at the counter would go in with it?

19 A. They would take it in and say Diane or Bob,  
20 there's someone here with an application. That  
21 person would leave the office and the person  
22 looking for work would stay.

23 Q. You're saying every person that came in was

1 to learn that an African American individual who  
2 had applied on more than one occasion was never  
3 brought to see anybody in management?

4 MS. BAHAS: Object to the form.

5 BY MS. GRECO:

6 Q. You can answer.

7 A. The only thing I could say is, if they were  
8 denied, at the time we didn't need help.

9 Q. If there was a help wanted sign in the window and  
10 the person responded to that sign and filled out  
11 an application, would there be any reason for  
12 them not to be brought in to see one of the  
13 management people?

14 MS. BAHAS: Object to the form.

15 THE WITNESS: No.

16 BY MS. GRECO:

17 Q. Based on your experience and your observations  
18 from where you were working during the morning in  
19 the butcher block, individuals would be brought  
20 back to management if they filled out an  
21 application and if there was a help wanted sign?

22 A. Correct.

23 Q. Were you aware of any instructions that were

1 BY MS. GRECO:

2 Q. I didn't ask you if he said it. I said if, in  
3 fact, he made statements, jokes about her  
4 children, would you agree with me, that that  
5 would be inappropriate in the workplace?

6 MS. BAHAS: Asked and answered multiple times.

7 BY MS. GRECO:

8 Q. You can answer.

9 A. I wouldn't approve of it, no.

10 Q. If you were his manager and you learned that,  
11 what would you do based on your years of  
12 management experience?

13 A. Probably terminate him.

14 Q. Were you aware of Sean Round making comments to  
15 Raelean Rush and/or Regina Rush relative to their  
16 African American boyfriend that they would be  
17 better off with a white guy?

18 A. No.

19 Q. Would it ever be appropriate for a Caucasian  
20 employee or any employee to say to a female  
21 employee relative to their African American  
22 boyfriend that she would be better off with a  
23 white guy?



1 A. No.

2 Q. Do you consider that statement to be racially  
3 offensive?

4 A. Yes, I would say yes.

5 Q. And if you heard a white employee say that to a  
6 female employee who was dating an African  
7 American male, what, if anything, would you do as  
8 a manager?

9 MS. BAHAS: Object to the form.

10 THE WITNESS: I wasn't manager.

11 BY MS. GRECO:

12 Q. I know, but in your experience as a manager,  
13 what, if anything, would you do?

14 MS. BAHAS: Object to the form.

15 THE WITNESS: I would take it to a higher level, I'd  
16 run it by them, my superiors.

17 BY MS. GRECO:

18 Q. Would you make a recommendation, like when you  
19 were the plant manager, would you make a  
20 recommendation regarding termination sometime?

21 MS. BAHAS: Object to the form.

22 THE WITNESS: It depends on the employee. If the  
23 employee was a headache, yes, I would, but if it

1           was a first time thing, no.

2   BY MS. GRECO:

3   Q.   What if that same employee said with regard to  
4       the white female dating an African American male  
5       that she needs to be with one of her own kind?

6   MS. BAHAS:   Object to the form.

7   BY MS. GRECO:

8   Q.   Would that be racially offensive?

9   A.   Yes, I would say so.

10   Q.   If the individual made that comment, would you  
11       recommend they be terminated if you were a  
12       manager?

13   MS. BAHAS:   Object to the form.

14   THE WITNESS:   I really don't know.   You're asking me  
15       something that I have no control over and I  
16       really don't know if it happened.

17   BY MS. GRECO:

18   Q.   I'm asking you to assume it happened, and as a  
19       manager, with your many years of experience as  
20       plant manager, what, if anything, would you do?

21   A.   I wouldn't stand for anything.   When I was a  
22       plant manager, I didn't take guff or anything  
23       from anybody.

1 Q. So if someone engaged in this conduct, you would  
2 either terminate them or recommend they be  
3 terminated?

4 MS. BAHAS: Object to the form.

5 BY MS. GRECO:

6 Q. You can answer.

7 A. Yes.

8 Q. If a white employee said to a female employee, a  
9 white male employee said to a white female who's  
10 dating an African American male that he was using  
11 her to get her name because black men always  
12 cheat and he probably has a lot of girlfriends,  
13 if you learned that as a manager, what, if any,  
14 action would you take?

15 MS. BAHAS: Object to the form.

16 BY MS. GRECO:

17 Q. You can answer.

18 A. I really don't understand the question.

19 Q. Assume you're the manager and you learn or hear  
20 that a white male employee said to a white female  
21 employee who was dating a black man that her  
22 boyfriend was using her to get her name because  
23 black men always cheat and he probably has a lot

1 of girlfriends, what, if anything, would you do?

2 A. Nothing, because it's none of my business.

3 Q. Do you think that would be offensive to the white  
4 female dating the African American male?

5 A. Possibly.

6 Q. Do you think there's a presumption because he's  
7 black he cheats?

8 MS. BAHAS: Object to the form.

9 BY MS. GRECO:

10 Q. You can answer.

11 A. I don't think blacks cheat any more than whites.

12 Q. Would it ever be appropriate for a white male  
13 employee to say to a white female employee dating  
14 an African American male, that her boyfriend was  
15 using her to get her name because black men  
16 always cheat and he probably has a lot of  
17 girlfriends?

18 MS. BAHAS: Objection. Asked and answered.

19 THE WITNESS: I think I did answer it.

20 BY MS. GRECO:

21 Q. Would it ever be appropriate for that to be said  
22 in the workplace?

23 A. I would say no.

1       into the store to purchase fillet mignon or strip  
2       steak why can't they get out and work?

3    A.   No.

4    Q.   Were you ever aware of Mr. Lapress saying on  
5       multiple occasions that Robert Seibert called him  
6       on the phone, telephone and told him his nigs are  
7       dirtying up the parking lot?

8    A.   No.

9    Q.   Would you agree with me that referring to African  
10       American individuals as nigs would be offensive  
11       to an individual who has African American  
12       children?

13   A.   Even if they didn't, it would be offensive.

14   Q.   Would you agree with me that making references  
15       that are derogatory to African Americans would be  
16       offensive to an individual whose children were  
17       African American?

18   A.   It's not appropriate.

19   Q.   Did it ever come to your attention that this  
20       conduct was going on?

21   MS. BAHAS:   Object to the form.

22   THE WITNESS:   Never heard if it was.

23   BY MS. GRECO: